

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

MICHAEL A. CINELLI,

Petitioner,

vs.

UNITED STATES,

Defendant.

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Case No. 1:16CV00108 ERW

**MEMORANDUM AND ORDER**

This matter is before the Court on Petitioner Michael A. Cinelli's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [ECF No. 1]. Petitioner requests the Court vacate his sentence pursuant to *Johnson v. United States*, 135 S. Ct. 2551 (2015) and *Welch v. United States*, 136 S. Ct. 1257 (2016). The United States agrees Petitioner should be resentenced as he is no longer an armed career criminal. Based on the agreement of the parties and the Court's review of the pleadings and relevant case law, the Court will grant Petitioner's Motion. The Court will set a date for Petitioner to be resentenced after speaking with Petitioner's counsel, counsel for the Government, and the United States Probation Office. Further orders and motions regarding Petitioner's resentencing shall be filed in Petitioner's original criminal case, 1:07CR00129 ERW. Accordingly,

**IT IS HEREBY ORDERED, ADJUDGED and DECREED** that Petitioner Michael A. Cinelli's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody [ECF No. 1] is **GRANTED**.

Dated: June 9, 2016



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**E. RICHARD WEBBER**  
**SENIOR UNITED STATES DISTRICT JUDGE**